



U.S. Department of Justice

*United States Attorney
District of New Hampshire*

*Federal Building
55 Pleasant Street, Room 352
Concord, New Hampshire 03301*

603/225-1552

MEDIA RELEASE

For Immediate Release

Thursday, September 18, 2003

**Contact: Thomas P. Colantuono
United States Attorney
William E. Morse
Assistant U.S. Attorney
(603) 225-1552**

BEDFORD MAN TO BE JAILED FOR INSIDER TRADING

CONCORD, NEW HAMPSHIRE: U.S. Attorney Tom Colantuono announced that United States District Judge Joseph A. DiClerico, Jr., sentenced Bedford resident Timothy J. Potter to five months of incarceration and five months of home detention for conspiracy to commit insider trading. Potter previously had pleaded guilty to leaking information about his employer, Sepracor Inc., to his father who in turn used the information to purchase Sepracor securities. Sepracor is a pharmaceutical development company based in Marlborough, Massachusetts. Potter, age 39, resides at Colonel Daniel Drive in Bedford, New Hampshire.

In connection with his earlier guilty plea, Potter acknowledged that, on October 18, 2000, he disclosed to his father, George R. Potter, confidential information concerning adverse developments relating to (R)-fluoxetine, a pharmaceutical drug then being jointly developed by Sepracor and Eli Lilly & Co. At the time, Potter was employed as a Manager in Sepracor's Accounting Department. Potter's father used the confidential information to purchase "put options" for Sepracor stock. A put option gives its purchaser the right to sell the underlying stock at a predetermined price by a certain date, and the purchase of a put option is essentially a bet that the price of the underlying securities will decline.

When Sepracor and Eli Lilly publicly announced the adverse developments relating to (R)-fluoxetine the following morning, Sepracor's stock price plummeted while the value of Sepracor's put options soared. Potter's father sold the Sepracor put options hours after the public announcements, generating an overnight profit of more than \$55,000. Potter's father later transferred that profit to Potter. Potter also admitted to attempting to mislead the U.S. Securities and Exchange Commission in sworn testimony he provided in an investigation the SEC was conducting into his trades.

Judge DiClerico sentenced Potter to five months incarceration followed by five months of home detention with electronic monitoring and fifty hours of community service. Potter also was sentenced to three years of supervised release and ordered to pay a fine of \$3,000. Potter is also a

defendant in a related civil enforcement action filed by the SEC, pursuant to which he is expected to pay fines and other monetary relief in excess of \$120,000. Potter's father pleaded guilty to related criminal charges and was sentenced to six months of home confinement.

United States Attorney Colantuono stated: "Insider trading is directly contrary to the notion of fairness in our stock markets. Whether on Wall Street or Main Street, the federal government will enforce the insider trading laws forcefully to ensure a level playing field for all investors."

This matter was investigated by the Bedford office of the Federal Bureau of Investigation and was referred to the FBI by the SEC. The United States Attorney's Office expresses its appreciation for the valuable investigative assistance of both the FBI and the SEC in this case. Assistant U.S. Attorney Bill Morse prosecuted the criminal case.